

IN PRO PER

TOMAS LOPEZ MENEWEATHER, D-35219

SALINAS VALLEY STATE PRISON #A-3-109-L

P.O. Box 1050

Salinas, California #93960

FILED

JAN 24 2008

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

8

IN THE UNITED STATES DISTRICT COURT,
NORTHERN DISTRICT OF CALIFORNIA

TOMAS LOPEZ MENEWEATHER

PLAINTIFF

v.

B. POWELL, ET AL

DEFENDANTS

CASE NO C-07-04092SBA (PR)

MOTION FOR PERMISSION TO
FILE A MOTION FOR RECONSIDERATION

Introduction

To: THE HONORABLE JUDGE THELTON E. HENDERSON OF THE ABOVE
NAMED ENTITLED COURT. I AM A A.D.A. INMATE PRISONER IN
THE CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION,
HOUSED AND CONFINED AT SALINAS VALLEY STATE PRISON ON 8/7/67
I, (HEREINAFTER KNOWN AND REFERED TO AS PLAINTIFF) PREPARED
THREE 42 U.S.C. SECTION 1983 COMPLAINTS, THREE COPIES OF
A 1824/602 WITH A "ADDITIONAL SHEET" ATTACHED TO EACH ONE,
A APPLICATION MOTION TO PROCEED IN FORMA PAUPERIS; AND,
A COPY OF PLAINTIFF'S INMATE TRUST ACCOUNT STATEMENT FOR

T

The past six months, plaintiff placed these documents in a 9X12 MANILA ENVELOPE, AND, TAPED A COMPLETED AND SIGNED INMATE TRUST WITHDRAWAL TO THE ENVELOPE FOR POSTAGE; THE OUTGOING MAIL WAS PICKED UP (COLLECTED) BY THIRD WATCH BUILDING FLOOR OFFICER V. FRANCO WHO LOOKED INSIDE THE ENVELOPE AS A VISUAL SEARCH AND RETURNED IT TO PLAINTIFF TO SEAL AND RETURN TO HIM; PLAINTIFF SEALED THE ENVELOPE WITH ALL OF THE DOCUMENTS MENTIONED AND DESCRIBED, ENCLOSED, AND, RETURNED THE ENVELOPE TO C/O V. FRANCO TO PLACE IN THE OUTGOING PRISON MAIL. APPROX. TWO, OR, THREE WEEKS LATER, PLAINTIFF RECEIVED A NOTICE FROM THE COURT, THE FACE SHEET OF THE APPLICATION TO PROCEED IN FORMA PAUPERIS, STAMPED FILED AUGUST 9, 2007, CASE NO. C-07-4092 S.B.A. ALONG WITH A NOTICE ADVISING PLAINTIFF THAT THERE WAS NO H2 U.S.C. SECTION 1983 COMPLAINT IN THE ENVELOPE WITH THE OTHER DOCUMENTS MENTIONED AND DESCRIBED IN THIS LETTER, AND, STATED FURTHER THAT PLAINTIFF HAD THIRTY DAYS TO SUBMIT A H2 U.S.C. SEC. 1983 COMPLAINT OR THE COURT WILL DISMISS PLAINTIFF'S ACTION (SEE ENCLOSED EXHIBIT "A") PRIOR TO THE DATE PLAINTIFF GAVE C/O V. FRANCO THE SEALED ENVELOPE MENTIONED AND DESCRIBED IN THIS LETTER, PLAINTIFF WAS LOCKED UP IN AD/SEG. C/O V. FRANCO WORKED IN AD/SEG, ON 2/11/07 C/O V. FRANCO WROTE A FALSE CDC 115 (RULE VIOLATION REPORT) AGAINST PLAINTIFF IN RETALIATION FOR A 602 GRIEVANCE PLAINTIFF FILED AGAINST NINE PRISON STAFF WHO WORKED IN AD/SEG, FOR CRUEL AND UNUSUAL PUNISHMENT, THE GRIEVANCE WAS PARTIALLY GRANTED AT THE FIRST AND SECOND LEVEL, AFTER PROCESSING THE GRIEVANCE THROUGH THE DIRECTOR'S LEVEL, PLAINTIFF FILED THE COMPLAINT AS MENTIONED AND DESCRIBED IN THIS LETTER.

AFTER RECEIVING THE NOTICE FROM THE CLERK OF THE COURT THAT THE ACTION WOULD BE DISMISSED IF THE COURT DID NOT RECEIVE PLAINTIFF'S 112 U.S.C. SEC. 1983 COMPLAINT WITHIN THIRTY DAYS, PLAINTIFF WROTE A LETTER TO THE PRISON LAW OFFICE AND SENT THE NOTICE FROM THE CLERK AND REQUESTED ASSISTANCE AND ADVICE. (SEE EXHIBIT B). THE PRISON LAW OFFICE RETURNED PLAINTIFF'S LETTER AND ENCLOSURES AND INFORMED PLAINTIFF THAT THEY DO NOT HANDLE INDIVIDUAL CASES, ONLY CLASS ACTIONS.

ON DECEMBER 21, 2007 AND AGAIN ON DECEMBER 24, 2007 PLAINTIFF RECEIVED A ORDER FROM UNITED STATES DISTRICT COURT JUDGE SAUNDRA BROWN ARMSTRONG DISMISSING PLAINTIFF'S ACTION BECAUSE IT WAS OPENED IN ERROR, THE COURT STATED THAT THE DOCUMENTS WAS WAS MAILED IN TWO SEPERATE ENVELOPES TO THE COURT AND WAS ASSIGNED TWO DIFFERENT CASE NUMBERS WHEN THEY WAS SUPPOSED TO HAVE BEEN ALL MAILED IN ONE ENVELOPE (SEE EXHIBIT C).

PLAINTIFF STATES THAT THE FACTS ON WHICH THE COURT DISMISSED PLAINTIFF'S ACTION ARE UNTRUE AND IS SIGNIFICANTLY DIFFERENT FROM THE ACTUAL TRUE FACTS THAT ARE SET FORTH IN THIS LETTER WHICH PLAINTIFF BELIEVES, AND, SUBMITS THAT THE COURT COULD NOT REASONABLY HAVE KNOWN BEFORE ENTERING THE ORDER DISMISSING PLAINTIFF'S ACTION. PLAINTIFF MAILED ALL OF HIS LEGAL DOCUMENTS AS DESCRIBED THROUGHOUT THIS LETTER AND THE ONLY WAY THAT PLAINTIFF'S DOCUMENTS COULD HAVE BEEN REMOVED AND MAILED IN TO SEPERATE ENVELOPES IS THAT C/O V. FRANCO ILLEGALLY OPENED PLAINTIFF'S SEALED CONFIDENTIAL MAIL ADDRESSED TO THE COURT AND REMOVED THEM TO DEPRIVE PLAINTIFF OF HIS RIGHT TO SEEK REDRESS THROUGH THE COURT FOR FEDERAL CIVIL RIGHTS CRIMES COMMITTED

AGAINST PLAINTIFF BY PRISON GUARDS AND MEDICAL STAFF
AT SALINAS VALLEY STATE PRISON AND VIOLATIONS OF PLAINTIFF'S
FEDERAL CIVIL RIGHTS.

I DECLARE UNDER THE PENALTY OF PERJURY OF THE LAWS OF THE
STATE OF CALIFORNIA THAT THE FOREGOING IS TRUE AND CORRECT

DATED 1/3/08

TOMAS LOPEZ MENEWEATHER

E-filing
Exhibit "A"

ORIGINAL
FILED

07 AUG -9 PM 12: 35

RICHARD W. WIERING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FILED

07 AUG -9 PM 12: 05

RICHARD W. WIERING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

TOMAS LOPEZ MENEWEATHER

Plaintiff,

vs.

B. POWELL, ET AL

Defendant.

07

4092

CASE NO. _____

SBA

PRISONER'S
APPLICATION TO PROCEED
IN FORMA PAUPERIS

(PR

ITEL MENEWEATHER, declare, under penalty of perjury that I am the plaintiff in the above entitled case and that the information I offer throughout this application is true and correct. I offer this application in support of my request to proceed without being required to prepay the full amount of fees, costs or give security. I state that because of my poverty I am unable to pay the costs of this action or give security, and that I believe that I am entitled to relief.

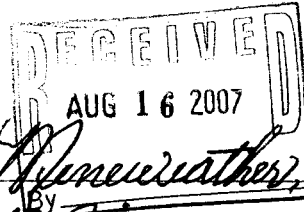
In support of this application, I provide the following information:

1. Are you presently employed? Yes _____ No ☒

If your answer is "yes," state both your gross and net salary or wages per month, and give the name and address of your employer:

Gross: _____ Net: _____

Employer: _____



Mr. Tomas Lopez Reneuweather, D-35219
Salinas Valley State Prison # A-3-109-L
P.O. Box 1830
Soledad, California # 93960
August 13, 2007

Exhibit "B"
MOTION FOR PERMISSION
TO FILE A MOTION FOR
RECONSIDERATION

We return your original letter
and any docs we received.
No copies kept.

Alison Hardy
Attorney At Law
Prison Law Office
General Delivery
San Quentin, California # 94964

RE: REQUEST FOR ADVICE AND OR ASSISTANCE

Attn. Shuna:

on 7/14/07 I was interviewed by two members of
internal affairs and someone from the office of the
inspector General, who took a verbatim copy of the
602 that was processed through third level on my
being subjected to cruel and unusual punishment
in ad seg, they instructed one of the I.S.U. staff
to mail it to the courts with my 42 U.S.C. sec. 1983
complaint, which was not done, Instead, I was
moved to A-3-109-L the following day where V. Franco
and B. Powell from ad seg D-2 was working on

7/15/07 I filed a shiformal reply to the shiformal response requested by the judge from the Att. General. I also sent a copy to the attorney general which was returned the following week with a claim that I owed thirty nine additional cents for postage which was untrue because I submitted a inmate trust account withdrawal order for the postage. But, to remove the chance for further fabrications I borrowed a thirty nine cent stamp and placed it on the copy addressed to the attorney general, it was returned to me the following week with a stamp indicating that the Attorney General's office was no longer at 455 Mulberrygate Ave. Suite 11000 S.F. # 94102 and said that it could not be forwarded by the post office.

on 8/7/07 I mailed a 1983 Complaint with the 1824/602 processed through the director's level, a application to proceed in forma pauperis and a copy of my trust account statement to the U.S.M.C. Northern District it was picked up by V. Franco. Today I received the enclosed from the Court he opened the mail to the Court took the 1983 Complaint and probably the 1824/602 I need help getting this handled I intend to press Criminal Charges Against him.

Respectfully Submitted
 Fred Minnerath

PLEASE ACKNOWLEDGE THIS LETTER

Case 4:07-cv-04092-SBA Document 3 Filed 12/19/2007 Page 1 of 2

Exhibit "C"

E- **FILED**

DEC 19 2007

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

#3

TOMAS LOPEZ MENEWEATHER,

No. C 07-04092 SBA (PR)

Plaintiff,

ORDER OF DISMISSAL

v.

B. POWELL,

Defendant(s).

This action was opened in error when the Court received documents in two separate envelopes from Plaintiff that were intended to be filed in a single action. Two different actions were opened, although only one action should have been opened. The document in Case No. C 07-04092 SBA (PR) is a copy of the document filed in Case No. C 07-4204 SBA (PR). This action is DISMISSED because it was opened in error. The in forma pauperis application is DENIED as moot. No filing fee is due. The Clerk of the Court shall close the file.

IT IS SO ORDERED.

DATED: 12/18/07

Saundra B. Armstrong
SAUNDRA BROWN ARMSTRONG
United States District Judge

P:\PRO-SE\SBA\CR.07\Meneweather4092.dismiss.frm

DEC 19 2007

Entered on Civil Docket

United States District Court
For the Northern District of California

Case 4:07-cv-04092-SBA Document 3 Filed 12/19/2007 Page 2 of 2

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

TOMAS LOPEZ MENEWEATHER,

Plaintiff,

v.

B. POWELL et al,

Defendant.

Case Number: CV07-04092 SBA

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on December 19, 2007, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Tomas Lopez Meneweather D35219
Salinas Valley State Prison
P.O. Box 1050
Soledad, CA 93960

Dated: December 19, 2007

Richard W. Wicking, Clerk
By: LISA R CLARK, Deputy Clerk

United States District Court
For the Northern District of California

Mr. Waymon M. Berrv. III. C-22935
SALINAS VALLEY STATE PRISON
Post Office Box 1050. FA3-131-L
Soledad. California 93960-1050

USA41

SALINAS

04 JAN 2008

LEGAL CONFIDENTIAL MAIL

Hon. Thelton Henderson. US DIST. JUDGE
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
450 Golden Gate Avenue
San Francisco, California 94102

Mailed:

STATE PRISON
GENERATED MAIL

34102+3661

